

CENTRAL INFORMATION COMMISSION
Club Building (Near Post Office)
Old JNU Campus, New Delhi - 110067
Tel: +91-11-26161796

Decision No. CIC/SG/C/2009/001451/9027

Complaint No. CIC/SG/C/2009/001451

Relevant Facts emerging from the Complaint:

Complainant : Mr. U.S. Singhal,
Editor (P.G.) Public News,
510, GD-ITL, North-Ex Tower,
A9, Netaji Subhash Place,
Pitampura, New Delhi – 110034.

Respondent : Mrs. Kiran Gambhir
Principal
Sachdeva Public School,
Pitampura,
New Delhi – 110088.

RTI application filed on : 03-09-2009
PIO replied : 16-09-2009
First appeal filed on : Not filed
First Appellate Authority order : Not replied
Complaint received on : 23-10-2009
Date of Notice of Hearing : 04/11/2009
Hearing Held on : 16-12-2009

Information Sought:

The Appellant had sought following information from PIO – Sachdeva Public School, Pitampura, New Delhi regarding

1. Please provide details of Management Committee of Sachdeva Public School, Pitampura with following details for last 10 yrs.
 - Name and address with father's/ husband name.
 - Educational qualification.
 - Date of joining with tenure if any.
 - If he/she is member of management committee of another school, if yes, name of that school.
 - Whether appointed by Society, PTA, any Govt. Deptt. Etc.
2. Please provide certified copies of "Building structure stability certificate from competent authority for the school.
3. please provide name of conductor with photocopy of conductor's licenses for the school buses (owned or hired) of the school.
4. Please provide photocopy of certificate of speed governors for the school.
5. If any other institution is being run by the same society other than this school ; if yes, please provide details
6. Please provide photocopy of resolution of PTA in which proposal for enhancement of fees got approved.
7. Details of teaching / non teaching staff terminated/left since 01 January 2006 for both the school with following details:
 - Name.
 - Designation.

- Qualification.
 - Date of joining.
 - Emoluments & perks.
 - Period of notice.
 - Reason of dismissal / resignation.
8. No. of part time / temporary teaching and non teaching staff with name, designation, qualification, emoluments & perks with period of service.
9. How many periods the Principal is taking in a week? Please provide details with day and class.

The PIO's reply:

"The Principal – (Kiran Gambhir) of the school said in the reply that "The Central Information Commission had ruled that unaided Private Schools are not a public authority as defined under the RTI Act, in this context a copy of the pronounced decision dated 14th July, 2009 by Shri Shailesh Gandhi, Information Commissioner in the case of Mr. Prahlad N. Kalra, Advocate, Supreme Court of India, F. No. 10, 1st Floor, WZ – 27, Jawala Hadi Market, Paschim Vihar, New Delhi – 63 Vs Mr. Joginder Singh, PIO, Lancer's Convent Sr. Sec. School, Prashant Vihar, Rohini, New Delhi – 110085. copy of said order had been provided to the appellant.

In the view of the above, application had been return to the appellant by the PIO with Postal order No. 77E 338364 for Rs. 10/-".

Ground of the First Appeal:

First appeal did not filed by the complainant.

Order of the FAA:

No order had been passed by the F.A.A. naturally because the complainant did not file first appeal in the same department.

Ground of the Second Appeal:

No information had been provided by the PIO. No order had been passed by the F.A.A. naturally because complainant did not file the first appeal in the same department.

Relevant Facts emerging during Hearing held on December 16, 2009:

The following were present:

Complainant: Mr. U.S. Singhal;

Respondent: Mrs. Kiran Gambhir, Principal;

"The Respondent has stated that their institution is not a public authority and it is privately run unaided school. The Complainant has claimed that the institution was given lands at concessional rates and there this amounts to an indirect substantial funding. He has claimed that the society was given land at throwaway price. The Respondents have stated that they were given these lands at a premium of Rs.8.00/- lakhs per acre in 1985 which was the rate at which land was given to the institution by DDA at that time. The Respondent contends that Rs.8/-lakh per acre can not be considered as throwaway price the Commission would like to obtain data about the difference in price at the time of allotment and the basis for difference in the prices before it can arrive at any conclusion. The Commission requests both sides to provide information if they can about differential prices of land in 1985 and current. The Commission requests both sides to give this information to the Commission before 15 January 2010 after this the Commission will hold another hearing to determine this."

The decision was reserved during the hearing held on December 16, 2009.

Decision announced on August 18, 2010:

The Commission by its order dated 16/12/2009 directed the Complainant and the Respondent through its Principal Mrs. Kiran Gambhir to provide information about differential prices of land in 1985 and at

present, before 15/01/2010. However, no written submissions were received by the Commission from Mrs. Gambhir. The Complainant provided the Commission with his submissions along with relevant documents vide letter dated 06/08/2010. The letter dated 06/08/2010 from the Complainant sets forth the grounds on the basis of which the Respondent can be considered a “public authority” under Section 2(h) of the RTI Act.

The Commission perused the letter dated 06/08/2010. The grounds raised by the Complainant therein include the fact that the land on which the Respondent was established was allotted by DDA at nominal/ concessional rates. In this regard, reliance was placed on circulars dated 29/12/2009 and 28/07/2010 issued by the Directorate of Education (Act Branch), GNCTD. The Complainant also provided a copy of the DDA’s letter dated 08/11/1985 on the basis of which land was allotted to Shri. Laxman Dass Sachdeva Memorial Educational Society. The Commission noted that as per the letter, the said society was required to pay the cost of land admeasuring 1.076 acres at a provisional rate along with an annual ground rate. The society was also allotted 0.976 acre of land for a play ground on temporary basis at a nominal ground rent of Re. 1 per annum. Further, based on the reply provided by the DDA on 20/07/2010 in response to another RTI application dated 17/06/2010, the Complainant contended that the DDA did not charge any cost of land for the play field allotted to private schools.

At the hearing held on 16/12/2009, the Complainant claimed that the Respondent was given land at concessional rates and that amounted to indirect substantial financing by the appropriate Government. Therefore, the Respondent was a public authority under Section 2(h) of the RTI Act. On the other hand, Mrs. Gambhir contended that the Respondent was not a “public authority” and that it was a privately run unaided school. The land was allotted at a premium of Rs. 8 lakhs per acre in 1985, which was the rate at which land was given to an institution by the DDA at that time.

Section 2(h) of the RTI Act provides as follows:

“2. In this Act, unless the context otherwise requires-

...

(h) “public authority” means any authority or body or institution of self- government established or constituted,--

(a) by or under the Constitution;

(b) by any other law made by the Parliament;

(c) by any other law made by State Legislature;

(d) by notification issued or made by the appropriate Government,

and includes any-

(i) body owned, controlled or substantially financed;

(ii) non- Government Organisation substantially financed, directly or indirectly by funds provided by the appropriate Government;”

From a plain reading of the aforesaid, the main issue before the Commission is to determine whether the Respondent is a “public authority” under Section 2(h)(d)(i) of the RTI Act. The definition of “public authority” under Section 2(h) of the RTI Act brings within its ambit bodies which are substantially financed directly or indirectly by the appropriate Government. The word “financed” as used in Section 2(h)(d)(i) of the RTI Act is only qualified by the term “substantially”. According to the Commission, the term “substantial” is akin to “material” or “important” or “of considerable value”. In other words, the extent of funding by the appropriate Government should be such that in its absence, the functioning of the entity is rendered difficult.

In the instant case, no evidence has been produced before the Commission which establishes that the Respondent is substantially financed either directly or indirectly by the appropriate Government. By letter dated 08/11/1985, the DDA allotted land to the Respondent for building school premises and for a playground. In respect of the school building, land was allotted to the Respondent by the DDA at a price of Rs. 8 lakhs per acre. It is pertinent to note that the consideration of Rs. 8 lakhs per acre paid by the Respondent is not disputed. The Commission is of the view that where land was allotted in 1985 based on the then prevailing price of Rs. 8 lakhs per acre, such consideration is valuable and cannot be considered as insignificant by any means. According to the Commission, an allotment of land in 1985 for a consideration of Rs. 8 lakhs per acre cannot be said to have been given at a concessional or nominal rate. In other words, the Respondent has not received any substantial funding indirectly from the appropriate Government.

In view of the aforesaid, the Respondent is not a “public authority” under Section 2(h) of the RTI Act. The Complaint is disposed.

This decision is announced in open chamber.

Notice of this decision be given free of cost to the parties.

Any information in compliance with this Order will be provided free of cost as per Section 7(6) of RTI Act.

Shailesh Gandhi
Information Commissioner
August 18, 2010

(In any correspondence on this decision, mention the complete decision number.) (BK)